

**Statement of the
LEGAL SERVICES CORPORATION
John McKay, President**

**before the
Senate Indian Affairs Committee
on S. 1508,
the Indian Tribal Justice System Technical and Legal Assistance Act of 1999**

September 29, 1999

Good morning, Chairman Campbell and distinguished members of the Senate Indian Affairs Committee. Thank you very much for the opportunity to testify on S. 1508, the Indian Tribal Justice System Technical and Legal Assistance Act of 1999. The Legal Services Corporation (“LSC” or “the Corporation”) appreciates your invitation to offer our comments on this legislation.

Because this opportunity to appear before the Senate Indian Affairs Committee is a unique opportunity for the Corporation, let me provide the Committee with some background on LSC.

The Legal Services Corporation is a private, non-profit corporation established by Congress in 1974 to seek to ensure equal access to justice under the law for all Americans. Our mission is to promote access to our system of justice to improve opportunities for low-income people throughout the United States by providing high quality civil legal representation to those who would otherwise be unable to afford it. The Corporation provides grants to local legal services programs to address critical legal problems for eligible clients and their families in every state and county in the United States.

LSC is headed by an 11-member Board of Directors appointed by the President and confirmed by the Senate. By law, the Board is bipartisan: no more than six members may be of the same political

party. Local programs are governed by their own Boards of Directors, which set priorities and determine the types of cases that will be handled by the program, subject to restrictions set by Congress. A majority of each local Board is appointed by local bar associations. One-third of each local Board is composed of client representatives appointed by client groups. Programs may supplement their LSC grants with additional funds from state and local governments, IOLTA (Interest on Lawyer Trust Accounts) programs, other federal agencies, bar associations, United Way and other charitable organizations, foundations and corporations, and individual donors. They further leverage federal funds by involving private attorneys in the delivery of legal services for the poor, mostly through volunteer pro bono work. LSC-funded programs do not handle criminal cases, nor do they accept fee-generating cases that private attorneys are willing to accept on a contingency basis.

I should note that, pursuant to congressional direction in 1996, LSC funded programs are prohibited from engaging in class actions, challenges to welfare reform, collection of court-awarded attorneys' fees, many types of lobbying, litigation on behalf of prisoners, and representation of undocumented and other categories of aliens.

The Legal Services Corporation strongly supports S. 1508, legislation recently introduced by Chairman Campbell. This bill would authorize the Attorney General to award grants to national or regional tribal justice system organizations or non-profit entities that provide legal assistance services for tribes and tribal members for the purpose of improving tribal judicial systems through training, technical assistance, and civil legal and criminal assistance. LSC appreciates that the thirty Indian Legal Services (ILS) programs that receive LSC funding are specifically included as eligible entities

to whom the Attorney General may award grants for civil legal and criminal assistance programs under Sections 102 and 103 of the bill.

Since 1968, ILS programs have been performing essential capacity building services to many tribal courts across the country, and have provided representation of Indian individuals in those courts. ILS programs have assisted tribes in such activities as the development of tribal courts, development of written tribal codes, and training of tribal judges and lay advocates, as well as provided legal representation to individual Native people and, in some cases, where permitted under the LSC Act and governing regulations, to tribal governments themselves.

An important theme of the Senate Indian Affairs Committee this year has been the facilitation and enhancement of strong tribal government, reservation infrastructure and economic opportunities for American Indians, Alaska Natives and Native Hawaiians. Just as the staggering poverty and unemployment statistics of many tribal reservations are an anomaly to the glowing reports of the economic health of America, so too the lack of equal access to the courts for many poor, small, rural and/or tribal communities undermines the overall level of confidence in our justice system. Without the full participation of the individuals in these communities and all others who must rely on our justice system to access the rights guaranteed to them through the Constitution, our nation's promise of "equal justice under law" is illusory.

Whether greater confidence in tribal courts is achieved through the provision of training or through technical or civil legal assistance, the broad goal of ensuring equal access to justice through equipping tribal justice system personnel with additional skills and tools will benefit individuals, local

businesses, contractors of various services, school districts, and local governments — in short, these steps will benefit entire communities, Native and non-Native.

The legislation's goal is also consistent with the intent of the Committee in a number of bills it has considered this year to maximize resources and to encourage partnerships. LSC recognizes that its funding alone is not sufficient to meet the vast unmet legal needs of low-income people in this nation, particularly in the Native American community. Any additional sources of funding can only benefit the ability of ILS programs to serve eligible Indian tribes and individuals who cannot afford legal assistance. LSC views the additional direct tie between LSC Indian Legal Services programs and the Department of Justice that would be authorized under this Act as an exciting opportunity to strengthen legal assistance to Native Americans.

On behalf of LSC, thank you for this opportunity to comment on S. 1508. The Corporation supports this initiative, and urges the Committee to take favorable action on the bill in the near future.